STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of Application and Complaint of MCI Telecommunications Corporation Against Michigan Bell Telephone Company, d/b/a Ameritech Michigan, Seeking (i) a 55% Discount of Intrastate Switched Access Service Where IntraLATA Dialing Parity is Not Provided, and (ii) an Order Requiring Implementation of IntraLATA Dialing Parity On an Expedited Basis Now that July 1, 1997 has Passed.

MCI TELECOMMUNICATIONS CORPORATION,

Complainant-Appellee,

and

AT&T COMMUNICATIONS OF MICHIGAN, SPRINT COMMUNICATIONS COMPANY, LP, LCI INTERNATIONAL, and ATTORNEY GENERAL,

Intervenors-Appellees,

and

MICHIGAN PUBLIC SERVICE COMMISSION,

Appellee,

v

MICHIGAN BELL TELEPHONE COMPANY, d/b/a AMERITECH MICHIGAN,

Respondent-Appellant.

UNPUBLISHED
March 16, 2001

No. 217037
Public Service Commission
PSC No. U-11743

Before: K. F. Kelly, P.J., and Smolenski, and Meter, JJ.

PER CURIAM.

Appellant Ameritech Michigan filed a claim of appeal from the January 19, 1999, opinion and order of the Public Service Commission (PSC) that, inter alia, directed Ameritech Michigan to immediately implement full intraLATA toll dialing parity. As a result of various intervening events since the filing of this appeal, the only remaining issue properly before this Court is whether the PSC erred in awarding costs to the prevailing parties.[1] We reverse the award of costs.

In an earlier order, this Court peremptorily reversed the PSC's award of attorney fees in light of *In re Complaint of City of Southfield Against Ameritech Michigan*, 235 Mich App 523, 533-535; 599 NW2d 760 (1999), which held that § 601 of the Michigan Telecommunications Act (MTA), MCL 484.2601; MSA 22.1469(601),[2] authorized the PSC to make whole ratepayers and other persons who had suffered economic losses but did not authorize it to award attorney fees to a prevailing party. For similar reasons, we reverse the PSC's award of costs upon our de novo review.[3] See *In re Complaint of Southfield*, *supra* at 533 (setting forth standard of review for questions of law). Indeed, the MTA did not expressly provide for such an award under § 601. See *id*. at 534-535. Moreover, as noted in *In re Complaint of Southfield*, *supra* at 534-535, to the extent that the MTA did authorize an award of costs, including reasonable attorney fees, the opposing party's position must have been determined to be frivolous. Here, there is no claim that the action was frivolous. Finally, we note that precluding awards of costs in cases brought before the PSC under the MTA is appropriate, given that virtually all such cases involve public questions, which generally do not merit an award of costs. See generally *American Aggregates Corp v Highland Twp*, 151 Mich App 37, 54; 390 NW2d 192 (1986).

Reversed.

/s/ Kirsten Frank Kelly
/s/ Michael R. Smolenski
/s/ Patrick M. Meter

---

[1] We expressly decline to address the merits of the four issues previously raised by Ameritech Michigan but abandoned on rebriefing.

[2] The MTA was automatically repealed, effective January 1, 2001. MCL 484.2604; MSA 22.1469(604).

[3] We note that appellee AT&T incorrectly asserts, at page 19 of its amended brief, that Ameritech Michigan did not adequately brief the issue of costs. Contrary to this assertion, Ameritech Michigan did indeed adequately address the issue of costs, in footnote 17 of its amended brief.